

persons who were employed by S & L to file papers during their lunch or non-employment hours in matters not assigned by Defendant S & L; and (c) Plaintiff used, on one occasion, persons who were employees of Defendant S & L, to file papers during their work hours in matters not assigned by Defendant S & L to Plaintiff. In all situations, Defendant authorized and/or ratified said activity.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

FIRST AFFIRMATIVE DEFENSE

Defendant fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant's claim is barred by the statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Defendant's claims are barred by the doctrines of waiver, estoppel, laches, and/or unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff denies that Defendant S & L is entitled to any award pursuant to its counterclaim; however, if any such award is obtained by Defendant S & L, on its counterclaim (whether as an offset against the Plaintiff's recovery under the Complaint or as an affirmative award against the Plaintiff), such award obtained by Defendant S & L, pursuant to its counterclaim, is itself subject to setoff and/or elimination by reason of the wrongful conduct (including but not limited to harassment, discrimination, intentional

infliction of emotional distress, threats of violence, retaliation and/or failure to pay proper wages or overtime) of Defendant S & L, including that of Defendant Laquercia, regardless of when that wrongful conduct occurred.

FIFTH AFFIRMATIVE DEFENSE

Defendant's counterclaim is itself unlawful retaliation under the civil rights laws and/or the overtime laws.

WHEREFORE Plaintiff demands judgment dismissing defendant's counterclaim in its entirety and awarding Ms. Magnoni costs, fees and such other and further relief as the Court deems just.

/s/ David Abrams

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